

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the license
to Conduct Gambling Activities of:

Fabian M. Green
Tukwila, Washington,

Licensee.

)
) No. CR 2011-00730
)
)
) **NOTICE OF ADMINISTRATIVE**
) **CHARGES AND OPPORTUNITY FOR**
) **AN ADJUDICATIVE PROCEEDING**
)

I.

The Washington State Gambling Commission issued Fabian M. Green, license number 68-05696, authorizing Card Room Employee activity with the Golden Nugget Casino.

The certification expires on January 29, 2012, and was issued subject to the Licensee's compliance with state gambling laws and rules.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

- On May 27, 2011, Jack Duncan, owner of Cactus Jack's Casino, contacted a Commission Special Agent (agent) regarding an alleged theft by the licensee, the former General Manager of Cactus Jack's, and requested that Commission staff open an investigation.
- Mr. Duncan informed the agent that on March 3, 2011, the licensee issued himself a \$200 company check as "reimbursement" for expenses which the owner stated were unauthorized. Mr. Duncan referred the agent to Joy Lovett, Accounting Manager for Cactus Jack's, regarding an additional theft of an unauthorized \$1,000 bonus.
- The agent contacted Ms. Lovett, who informed her that on April 14, 2011, the licensee approached Ms. Lovett and asked that a check be issued to him for \$1,000. Ms. Lovett gave the agent a copy of both checks, which the licensee himself had signed. At the time, the licensee had signature authority.
- Mr. Duncan informed the agent that Mr. Green was not entitled to the bonus, and that Mr. Green knew at the time he requested the checks that the payments were unauthorized. There is no supporting documentation authorizing the bonus or expenses. There is no writing stating what the bonus check was for or why it was issued.
- Mr. Duncan became aware of the checks when he was reviewing bank statements at a later date. Ms. Lovett informed the agent, that at the time she issued the checks, she believed the licensee was entitled to them, but that she did not confirm her assumptions with Mr. Duncan.

- The licensee left Cactus Jack's at the end of April 2011, and shortly thereafter took a position as the General Manager of the Golden Nugget Casino in Tukwila, where he still works.
- On June 6, 2011, the agent contacted the licensee regarding the allegations listed above. The licensee responded by e-mail that all conversations he had with Mr. Duncan, and information regarding his entitlement to the bonus was verbal, and he admitted that there was nothing in writing authorizing him to a bonus at the time he took it. The licensee informed the agent that he believed that he had oral authorization to take and keep the bonus as an "advance" on a future bonus.
- The licensee informed the agent on July 1, 2011, that he wanted to return the money to Mr. Duncan in hopes of resolving this matter. The licensee informed the agent that he was going to contact Mr. Duncan's attorney to arrange a meeting, and asked the agent to be present at the meeting when it was scheduled. The agent agreed to attend. As of the date of these charges, the licensee has neither scheduled such a meeting nor returned the money.
- The agent referred this matter to the local prosecutor for the filing of possible theft charges. As of the date of these charges, a criminal complaint has not yet been filed.
- Under RCW 9.46.190, when Mr. Green took \$1,200 from Cactus Jack's without authorization, and used it for his personal use, he engaged in an act, practice or course of operation that operated as fraud or deceit upon his employer, Cactus Jack's Casino. Additionally, he pursued economic gain in an occupational manner that creates probable cause to believe that his participation in gambling or related activities would be inimical to the proper operation of an authorized gambling.
- Based on his actions, the licensee defrauded his employer in violation of RCW 9.46.190, and demonstrated that he has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153.
- Therefore, under RCW 9.46.075 (1), (8), and (10), and WAC 230-03-085 (1), and (8), grounds exist to revoke Fabian M. Green's certification.

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit
(The following subsections apply.)

The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter;

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit
(The following subsections apply.)

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

- (1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or
- (8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations;

RCW 9.46.190 Violations relating to fraud or deceit

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:
(The following subsections apply.)

- (1) Employ any device, scheme, or artifice to defraud; or
- (3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.02.021.

RCW 9.46.153 Applicants and licensees-Responsibilities and duties

(The following subsection applies.)

- (1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

\\

\\

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, WAC Title 230, and Muckleshoot/State Compact.

The licensee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order REVOKING your license.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.



[Signature of Rick Day]

RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 7th day of NOVEMBER, 2011.

[Signature of Notary Public]
NOTARY PUBLIC in and for the State of

Washington residing at POYALUP, WA

My commission expires on 7/16/2013

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 7 day of November, 2011

[Signature of Fabian M. Green]
Fabian M. Green

Communications and Legal Department
Washington State Gambling Commission